

REMARKS

Claims 1-16 are pending in this application, of which claim 1 is independent. Applicants acknowledge, with appreciation, the Examiner's indication that claims 10 and 15 would be allowable if written in independent form including all of the limitations of the base claim and any intervening claims.

In this Amendment, claims 1 and 2 have been amended. Care has been exercised to avoid the introduction of new matter. Support for the amendments to claim 1 can be found in, for example, claim 2, and Fig. 7 and relevant description of the specification. Minor revisions have been made to claim 2 in relation to the amendments to claim 1.

Rejections of Claims under 35 U.S.C. § 102

Claims 1-4, 11, and 16 were rejected under 35 U.S.C. § 102(b) as being anticipated by Omata et al. (U. S. Patent No. 6,477,530, hereinafter "Omata"). This rejection is respectfully traversed.

Applicants submit that Omata does not identically disclose a data storage device including all the limitations recited in independent claim 1 which reads:

1. A data storage device performing input/output of classified data in accordance with predetermined input/output procedures for protection of said classified data, and storing said classified data, comprising:
 - an interface portion externally exchanging data;
 - a first storage portion storing said classified data; and
 - a second storage portion storing log information related to the input/output of said classified data according to said predetermined input/output procedures and an address representing a storage position of said classified data to be input/output in said first storage portion, whereinsaid log information includes:

an identification code identifying said classified data to be input/output, and

a first status information representing a state of storage of said classified data to be input/output in said first storage portion,

said data storage device further comprising a control portion controlling the input/output of said classified data, wherein

said first storage portion further stores a flag, corresponding to said classified data, indicating whether said classified data can be used or not, and

said control portion determines the state of storage of said classified data to be input/output in said first storage portion according to comparison of an identification code of classified data stored at a storage position in said first storage portion specified by said address with an identification code stored in said second storage portion, and a state of said flag corresponding to said classified data to be input/output.

In the Office Action, the Examiner identified retention part 12 and retention medium 13 as the claimed first storage portion, and access log recording part 4 and external memory 12 as the claimed second storage portion. Claim 1 recites that the first storage portion stores classified data, and the second storage portion stores log information and an address for the classified data. The Examiner further identified information stored in retention medium 13 shown in Fig. 13 of Omata as the claimed identification code and first status information.

The Examiner's assertions are illogical. Because (1) the Examiner identified retention medium 13 of Omata as the claimed first storage portion and (2) the claimed identification code and first status information are included in the log information which is stored in the second storage portion, information stored in retention medium 13 identified as the claimed first storage portion cannot be the claimed identification code and first status information stored in the second storage portion. Accordingly, it is apparent that the Examiner's interpretation of Omata is illogical in view of the limitations recited in independent claim 1.

Differences between claim 1 and Omata are further discussed. The data storage device as claimed is configured for clarifying a state of storage. The first storage portion further stores a flag, corresponding to classified data, indicating whether the classified data can be used or not. The control portion controlling the input/output of classified data determines the state of storage of the classified data that is to be input/output in the first storage portion according to comparison of an identification code of the classified data stored at a storage position in the first storage portion specified by an address stored in the second storage portion with an identification code stored in the second storage portion, and a state of the flag corresponding to the classified data that is to be input/output.

Information indicating such determined state of storage (the claimed first status information) is not disclosed by Omata. The reference merely describes that the attribute data includes a file name, file type, original identifier, a backup identifier, and the like with regards to the contents of attribute data (see column 14, line 62 to column 15, line 13 of Omata). Accordingly, Omata is silent on, among other things, the claimed first status information.

Based on the foregoing, Applicants submit that Omata does not identically disclose a data storage device including all the limitations recited in independent claim 1. Dependent claims 2-4, 11, and 16 are also patentably distinguishable over Omata at least because they respectively include all the limitations recited in independent claim 1. Applicants, therefore, respectfully solicit withdrawal of the rejection of the claims and favorable consideration thereof.

Rejections of Claims under 35 U.S.C. § 103

Claims 5-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Omata in view of Hori et al. (U.S. Patent Application Publication No. 2002/0191764, hereinafter “Hori”);

and claims 12-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Omata. These rejections are also respectfully traversed.

Claims 5-9 and 12-14 depend on independent claim 1. Applicants thus incorporate herein the arguments made in response to the rejection of independent claim 1 under 35 U.S.C. § 102 for anticipation as evidenced by Omata. The Examiner's additional comments and secondary reference to Hori do not cure the deficiencies of Omata. Applicants, therefore, respectfully solicit withdrawal of the rejection of the claims and favorable consideration thereof.

Double Patenting

Claims 1-16 were provisionally rejected on the ground of nonstatutory double patenting over claims 1-9 of copending Application number 10/522,176 (“ ‘176 application”); and claims 1-16 were also rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over claims 1-15 of copending Application No. 10/340,832 (“ ‘832 application”).

Applicants submit that claims 1-16 of the ‘176 application and claims 1-15 of the ‘832 application do not recite, among other things, the following limitations of claim 1:

said data storage device further comprising a control portion controlling the input/output of said classified data, wherein

said first storage portion further stores a flag, corresponding to said classified data, indicating whether said classified data can be used or not, and

said control portion determines the state of storage of said classified data to be input/output in said first storage portion according to comparison of an identification code of classified data stored at a storage position in said first storage portion specified by said address with an identification code stored in said second storage portion, and a state of said flag corresponding to said classified data to be input/output.

Accordingly, claim 1 is not an obvious variation of claims 1-16 of the '176 application and claims 1-15 of the '832 application. Applicants, therefore, respectfully solicit withdrawal of the double patenting rejections of the claims and favorable consideration thereof.

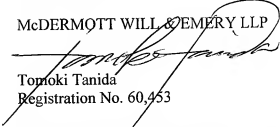
Conclusion

In view of the above remarks, Applicants submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Tomoki Tanida
Registration No. 60,453

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 TT:lnm
Facsimile: 202.756.8087
Date: August 1, 2008

**Please recognize our Customer No. 20277
as our correspondence address.**